

**MINUTES**  
**U.S. Bankruptcy Court, Northern District of California**  
**Bench-Bar Liaison Committee Meeting**  
**San Francisco**  
**September 17, 2002**

Members Present: Chief Judge Edward D. Jellen, Judge Thomas E. Carlson, Judge James R. Grube, Judge Alan Jaroslovsky, Judge Dennis Montali, Judge Marilyn Morgan, Judge Randall J. Newsome, Judge Leslie Tchaikovsky, Judge Arthur S. Weissbrodt, Ms. Martha Bronitsky, Donald H. Cram, Esq., Frederick D. Holden, Jr., Esq., Charles Logan, Esq., John MacConaghy, Esq., Alfred Moore, Esq., Ron Oliner, Esq., Reidun Stromsheim, Esq., Edward Tredinnick, Esq. Bennett Young, Esq.

Members absent: Eric Nyberg, Esq., Mr. Mohamed Poonja

Also Present: Dennis Bilecki, Deputy Clerk of Court, Edward J. Emmons, Deputy Clerk of Court, Lynn Higgs, Esq., General Counsel to Clerk of Court, Michael Cooper, Esq., ex officio member

**Welcome**

The meeting was called to order by the Chair at approximately 3:05 p.m. New appointees John MacConaghy, Ron Oliner and Martha Bronitsky were welcomed to their first meeting. The Chair also recognized Fred Holden, last year's Chair and thanked him for his service and expressed thanks to past members, Michael Fallon, Esq. and Devin Derham-Burk, Esq.

**Update on Electronic Court Filing Project**

Dennis Bilecki, the Clerk's CM/ECF Project Manager, provided a comprehensive recap to the Committee regarding the implementation of the CM/ECF Project. An implementation time-table was discussed, including a mass mailing to members of the Bar of information with respect to the CM/ECF Project in November of this year and inclusion of CM/ECF information on the Court's web page at about the same time. The target date for test filing on the electronic filing system is June of 2003 with training for attorneys and staff commencing in most, if not all, of the divisions in June of 2003. Full implementation of the system is scheduled for the latter part of 2003

Charles Logan provided the Committee with copies of information he obtained from the National CM/ECF Project Website. These materials, which are available online, provide certain technical information that will be useful to the Bar as implementation approaches and may be of interest to those who want to make some advance preparations.

Judge Tchaikovsky reported on activities of the CM/ECF Steering Committee and their continued work in implementing the new systems.

The Committee discussed numerous issues regarding training of the bar and implementation of the project with Mr. Bilecki. Lynn Higgs, General Counsel to the Clerk, commented that new local rules are being considered regarding the implementation of the electronic filing system by the CM/ECF Steering Committee.

### **Proposed Guidelines for Retention of Professionals**

There was a discussion regarding proposed guidelines for the retention of professionals that have been under consideration by the Judges of the Court. A draft copy of these guidelines was circulated to Committee Members.

Judge Grube addressed the Committee regarding the Judges' concern over problems that have arisen recently in the context of applications for retention of professionals. The Judges are concerned that certain employment terms are not being fully disclosed in the applications to employ professionals. Examples of these included the inclusion of monthly payment terms without the requisite Knudsen formalities, nunc pro tunc employment. The Judges do not want to be in the position of hunting for these type of terms or to be surprised later in a case that they are present. For that reason, the Judges are considering the adoption of Guidelines which would highlight these issues.

Mr. Holden expressed concern with the proposed guidelines that stated that hourly rates would not be approved in the employment application and were subject to review. Other members expressed similar concerns that this could become an issue at the end of a case after the professional had already expended efforts relying on a particular hourly rate, and then having to argue about it at the end of the case. Both the Judges and Members of the Committee agreed that neither the Bench nor the Bar wanted to be "surprised" at the end of a case by such issues.

The Judges will continue to discuss these issues and welcome any additional input from the Committee regarding the issues raised by the proposed guidelines.

### **Update of Compensation Guidelines**

There was a discussion regarding the updating of the compensation guidelines. This issue was raised at the last meeting of the Bench Bar Committee. During this discussion, there was a consensus that the dollar limits on the use of the short form fee application should be raised from the current level of \$5,000 to \$10,000. Further discussion was had regarding raising dollar limits for categories under the Project Billing requirements and the possibility of easing restrictions on the use of categories in particular cases.

Members of the Committee also raised the issue of streamlining the hearing process on uncontested fee applications either through a “scream or die procedure” or the use of telephonic appearances. The Committee will attempt to draft specific proposals to present to the Judges for their consideration regarding the raising of dollar limits and any other issues that the Committee and/or the Bar believe should be addressed with respect to the compensation guidelines for the Judges’ consideration at a future meeting.

### **Update on Cash Collateral Guidelines**

It was announced that Judge Montali and Judge Jellen will be starting a review of the cash collateral guidelines. The Committee will solicit input from the Bar in general to determine if there are any specific areas of concern to the Bar regarding the cash collateral guidelines for reporting at a future meeting.

### **Clerk’s Office Operations**

There was a discussion regarding the practice in the Clerk’s Divisional Offices to cutoff cash transactions prior to the 4:30 p.m. official closing time of the Clerk’s office. Members of the Committee have reported that different divisions have different cutoff times for the acceptance of cash transactions.

Mr. Emmons of the Clerk’s Office reported that the policy of the Clerk’s Office is to accept all filings with a cash transaction up to the filing date. However, after the “cutoff time”, a filer would receive a paper receipt, rather than the computer generated receipt that is normally received in a transaction. The reason for this is to allow the Clerks to balance their cash transactions prior to the end of the day. Members of the Committee expressed concern that this policy might result in confusion that filings are not available up to the closing hour of the Court and that the policy may not be communicated clearly to counsel or the public.

The Judges asked Mr. Emmons to review this and make certain that all filings are accepted up to the closing time.

The meeting was adjourned at 4:30 p.m.

Edward Tredinnick, Chair